

**STATE OF MISSOURI
MISSOURI BOARD OF PHARMACY**

IN RE:)	
)	
BRADLEY K. ROWLAND, R.PH.)	
License No. 041988)	Complaint No. 2017-002713
26065 Bothwell Park Road)	
Sedalia, MO 65301)	

**SETTLEMENT AGREEMENT BETWEEN THE
MISSOURI BOARD OF PHARMACY AND BRADLEY K. ROWLAND**

Come now Bradley K. Rowland, R. Ph. ("Respondent" or "Licensee") and the Missouri Board of Pharmacy ("Board" or "Petitioner") and enter into this Settlement Agreement for the purpose of resolving the question of whether Respondent's license to practice pharmacy will be subject to discipline.

Pursuant to the terms of Section 536.060, RSMo, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the Board under Section 621.110, RSMo, and stipulate and agree that a final disposition of this matter may be effectuated as described below.

Respondent acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Respondent knowingly

and voluntarily waives each and every one of these rights and freely enters into this Settlement Agreement and agrees to abide by the terms of this document as they pertain to him.

Respondent acknowledges that he has received a copy of the draft Complaint to be filed with the Administrative Hearing Commission, the investigative report, and other documents relied upon by the Board in determining there was cause for discipline against Respondent's license.

For the purpose of settling this dispute, Respondent stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Board that Respondent's license to practice pharmacy, numbered 041988, is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 338, RSMo.

JOINT STIPULATION OF FACTS

1. The Board is an agency of the State of Missouri created and established pursuant to Section 338.140, RSMo¹, for the purpose of executing and enforcing the provisions of Chapter 338, RSMo.

2. Bradley K. Rowland is licensed as a pharmacist under the laws of the State of Missouri, License No. 041988. Respondent's license was at all times relevant herein current and active.

3. At all relevant times herein, Respondent was employed as the Pharmacist-in-Charge ("PIC") of SSM Health Pharmacy located at 875 Highway 5 South, Tipton, MO 65081 (the "Pharmacy").

4. On or around April 27, 2017, the Board received a Pharmacist Disciplinary/Action Report from the SSM Manager of Clinical Pharmacy stating that

¹ All statutory references are to the Revised Statutes of Missouri 2016 as amended unless otherwise indicated.

Respondent had resigned from employment at the Pharmacy due to his misbranding of Concerta prescriptions on two separate occasions.

5. On March 6, 2017 and April 10, 2017, the Pharmacy received e-prescriptions for Concerta 36mg allowing for substitution.

6. On both dates, the Pharmacy submitted a claim for methylphenidate, the generic form of Concerta, to the patient's insurance because the Pharmacy did not have the brand name drug in stock, but the claims were rejected because the insurance required that the brand name drug be dispensed.

7. Respondent did not want to ask the patient to come back to the Pharmacy to receive the prescriptions, so Respondent resubmitted the claim to the patient's insurance using the brand name drug product, but dispensed the generic methylphenidate 36mg to the patient.

8. In both instances, the patient's insurance was billed for Concerta 36mg and the label on the medication container stated that the brand name drug Concerta 36mg was dispensed.

9. In both instances, the Pharmacy received a reimbursement from the patient's insurance for the brand name drug Concerta 36mg even though the generic methylphenidate 36mg had been dispensed to the patient.

10. Respondent adjusted the Pharmacy's perpetual inventory for methylphenidate to account for the discrepancy in the amount of methylphenidate on-hand in the Pharmacy.

11. Respondent dispensed two other generic medications to patients and billed insurance for the brand name drug when the Pharmacy did not have the brand name drug in stock and the patient's insurance required the brand name be dispensed. The two medications were Mitigare 0.6mg and Celebrex 200mg.

12. Respondent estimates that he dispensed generic medications and processed the prescriptions as brand drug products at least 12 times while working at the Pharmacy.

13. By presenting insurance claims for payment that falsely stated that the Pharmacy was dispensing brand name drug products when the Pharmacy was instead dispensing generic drug products to patients, Respondent engaged in misconduct, misrepresentation or dishonesty in the practice of pharmacy.

14. Missouri law requires with regard to dispensing records:

(1) In lieu of a non-electronic (manual) record-keeping system, a pharmacy may elect to maintain an electronic data processing (EDP) record keeping-system. All information concerning the compounding, dispensing, or selling by a pharmacy of any drug, device, or poison pursuant to a lawful prescription which is entered into an EDP system at any pharmacy shall be entered only by a licensed pharmacist or by a technician or intern pharmacist under the direct supervision and review of a licensed pharmacist. Prior to dispensing, a pharmacist shall personally verify the accuracy of prescription data entered into the EDP for each original prescription. The EDP system shall comply with all applicable state and federal controlled substance laws and regulations.

(2) EDP systems shall comply with the requirements of section 338.100, RSMo, and shall be capable of storing and retrieving the following information concerning the original filling or refilling of any prescription:

* * *

(I) Name, strength and dosage of drug, device or poison dispensed and any directions for use;

20 CSR § 2220-2.080(1) and (2)(I)

15. Respondent violated 20 CSR § 2220-2.080(1) and (2)(I) by failing to ensure the accuracy of prescription data entered into the Pharmacy's records and the accuracy of the Pharmacy's dispensing records. Specifically, Respondent failed to accurately record the generic medication dispensed to patients in the Pharmacy's records.

PIC Violations

16. All of the above-referenced violations committed by Respondent, the Pharmacy and any of its staff may be imputed to Respondent, who is ultimately charged with responsibility to ensure that the Pharmacy is operated in full compliance of all state and federal laws and regulations concerning the practice of pharmacy pursuant to § 338.210.5, RSMo, which states:

5. If a violation of this chapter or other relevant law occurs in connection with or adjunct to the preparation or dispensing of a prescription or drug order, any permit holder or pharmacist-in-charge at any facility participating in the preparation, dispensing, or distribution of a prescription or drug order may be deemed liable for such violation.

17. As PIC, Respondent's failure to supervise pharmacy personnel to assure full compliance with state and federal pharmacy laws and regulations is in violation of 20 CSR § 2220-2.090(2)(E), (G), (H), (W) and (Y) which states, in pertinent parts:

(2) The responsibilities of a pharmacist-in-charge, at a minimum, will include:

* * *

(E) Assurance that all procedures of the pharmacy in the handling, dispensing and recordkeeping of controlled substances are in compliance with state and federal laws;

* * *

(G) All labeling requirements are complied with according to section 338.059, RSMo, federal laws where required and board regulations governing auxiliary labeling of drugs and devices;

(H) The prescription files are maintained according to the requirements of this board and the other state and federal controlled substance laws and regulations;

* * *

(W) Assure full compliance with all state and federal drug laws and rules;

* * *

(Y) Assure that all state and federal laws concerning drug distribution and control are complied with and that no violations occur that would cause a drug or device or any component thereof to become adulterated or misbranded;

18. As PIC of the Pharmacy, Respondent's conduct, herein described, is in violation of 20 CSR § 2220-2.090. Further, pursuant to §338.210.5, RSMo, Respondent is responsible and deemed liable for all violations of the pharmacy and its staff herein described.

JOINT CONCLUSIONS OF LAW

19. Respondent's conduct is cause for disciplinary action against his license to practice pharmacy under § 338.055.2(4), (5), (6), (13) and (15), RSMo, which provides:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

* * *

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

* * *

(13) Violation of any professional trust or confidence;

* * *

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government.

JOINT AGREED DISCIPLINARY ORDER

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of Section 621.045.3, RSMo:

A. Respondent's license, License No. 041988, is hereby **PUBLICLY CENSURED**.

B. The terms of this Settlement Agreement are contractual, legally enforceable, binding, and not merely recitals. Except as otherwise contained herein, neither this Settlement Agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

C. Respondent, together with his heirs and assigns, and his attorneys, does hereby waive and release the Board, its members and any of its employees, agents, or attorneys, including any former board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to any claims for attorney's fees and expenses, including any claims pursuant to Section 536.087, RSMo, or any claim arising under 42 U.S.C. Section 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this Settlement Agreement in that it survives in perpetuity even in the event that any court of law deems this Settlement Agreement or any portion thereof void or unenforceable.

**RESPONDENT, AS EVIDENCED BY THE INITIALS ON THE APPROPRIATE
LINE,**

 REQUESTS
BL **DOES NOT REQUEST**

**THE ADMINISTRATIVE HEARING COMMISSION TO DETERMINE IF THE FACTS
SET FORTH HEREIN ARE GROUNDS FOR DISCIPLINING RESPONDENT'S
LICENSE TO PRACTICE PHARMACY.**

The parties to this Agreement understand that the Board of Pharmacy will maintain this Agreement as an open record of the Board as provided in Chapters 324, 338, 610, RSMo.

If Respondent has requested review, Respondent and Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Respondent's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Respondent's license. Effective fifteen (15) days from the date the Administrative Hearing Commission determines that the Settlement Agreement sets forth cause for disciplining Respondent's license, the agreed upon discipline set forth herein shall go into effect.

If Respondent has not requested review by the Administrative Hearing Commission, the Settlement Agreement goes into effect fifteen (15) days after the document is signed by the Board's Executive Director.

RESPONDENT

BRADLEY K. ROWLAND


Bradley K. Rowland

Date: 9/14/2018

PETITIONER

MISSOURI BOARD OF
PHARMACY

By:



Kimberly Grinston
Executive Director

Date:

9/20/18

NEWMAN, COMLEY & RUTH P.C.

By:


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